



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,255	04/18/2005	Jose Cortes Ferriz	6647-005	5618

22440 7590 10/30/2007  
GOTTLIEB RACKMAN & REISMAN PC  
270 MADISON AVENUE  
8TH FLOOR  
NEW YORK, NY 10016-0601

EXAMINER
----------

MAUST, TIMOTHY LEWIS

ART UNIT	PAPER NUMBER
----------	--------------

3751

MAIL DATE	DELIVERY MODE
-----------	---------------

10/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/522,255

**Applicant(s)**

CORTES FERRIZ, JOSE

**Examiner**

Timothy L. Maust

**Art Unit**

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-13 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/13/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5, 7-9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by King et al. ('766)

In regard to claim 1, 3 and 9, the King et al. reference discloses a “metering module” (Figure 1A) for pasty products (e.g. food condiments) comprising a “tank” 12 equipped with “means for pushing” (36-44) the pasty product and a “means for opening and closing” (124-130) an outlet of said tank, wherein the tank is a hollow prism and the means for pushing consists of a “vertical piston” 14 that tightly fits in the interior of the tank, coaxial thereto, the means for opening and closing consisting of a “lower metering valve” 20, whose valve body contains an “internal space” 112 with a vertical axis communicating with the tank, with a “sealing element” 66 of the valve being a truncated “closure head” and movable between a maximum opening position and a closure position (Figures 2a-2c), and wherein a “larger base” 18 of the sealing element device is essentially flush with the an outlet of the valve, thereby closing the tank.

In regard to claim 5, air is purged around valve 20 (see col. 14, lines 24-29).

Art Unit: 3751

In regard to claims 7 and 8, see Figure 1B showing piercing member 80 inside the tank 12.

In regard to claim 13, the process as claimed would be inherent during normal use and operation of the device.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al.

The King et al. reference discloses the invention substantially as claimed, but doesn't disclose a rod type pressure release valve. However, the Examiner takes Official Notice that the above valve is well known in the art it would have been an obvious matter of design choice to use this type of valve, since applicant has not disclosed that a pressure release rod valve rather than a pressure release duck bill valve solves any stated problem and it appears that the invention would perform equally well with many types of pressure release valves.

Further, in regard to claim 4, it would have been an obvious matter of design choice to employ a cylindrical tank rather than any other shaped tank, since applicant

Art Unit: 3751

has not disclosed that a cylindrical tank solves any stated problem or is for any particular purpose and it appears that the invention would perform equally with any shape of tank.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. in view of Wainberg et al.

The King et al. reference discloses the invention substantially as claimed (discussed supra), but doesn't disclose a mixing system having at least two metering modules on a horizontal plane and being computer controlled. However, the Wainberg et al. reference discloses a computer controlled mixing system for mixing different amounts of material into one container. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the King et al. system to be a computer controlled multi-dispensing metering system in view of the teachings of the Wainberg et al. reference in order to provide a computer controlled multi-dispensing metering system.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art of record pertains to various dispensing systems, similar to Applicant's device.

***Allowable Subject Matter***

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 6:30 - 5:00.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/  
Primary Examiner  
Art Unit 3751

Tim  
10/25/07